

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID JOHN WAGNER, JR.,

No. C 09-4662 SI (pr)

Petitioner,

**ORDER DENYING APPOINTMENT  
OF COUNSEL**

v.

KEN CLARK, warden,

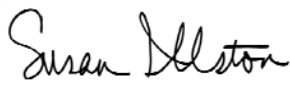
Respondent.

Petitioner requests that counsel be appointed to represent him in this action and that the deadline for him to file a traverse be delayed pending a ruling on the counsel request. A district court may appoint counsel to represent a habeas petitioner whenever "the court determines that the interests of justice so require and such person is financially unable to obtain representation." 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is within the discretion of the district court. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986). Appointment is mandatory only when the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations. See id. The interests of justice do not require appointment of counsel in this action. The request for appointment of counsel is DENIED. (Docket # 10.)

The traverse deadline is now extended. Petitioner must file and serve his traverse no later than **May 6, 2011**.

IT IS SO ORDERED.

DATED: March 28, 2011

  
SUSAN ILLSTON  
United States District Judge